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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,930	10/22/2001	Kailash C. Vasudeva	PAT 51400A-2	8465
26123	7590	01/25/2006	EXAMINER	
BORDEN LADNER GERVAIS LLP WORLD EXCHANGE PLAZA 100 QUEEN STREET SUITE 1100 OTTAWA, ON K1P 1J9 CANADA			TRAN, HANH VAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/982,930	<b>Applicant(s)</b> VASUDEVA, KAILASH C.	
	<b>Examiner</b> Hanh V. Tran	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 12-16 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-16 and 18-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 11/04/2006.

#### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation in claims 21-22 of the container unit having a living hinge, and then mounted within a holder must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 12-16, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 4,616,891 to Jantzen in view of USP 4,259,755 to Hollander and USP 5,458,409 to Sheng.

Jantzen is cited showing a container unit including a housing 100 with bins 10, 20, 30, 40 connected together for movement between coplanar and angled positions. Jantzen discloses that the invention is suitably produced in modular form from sets of troughs or bins that maybe arranged back to back or in parallel, col. 6 lines 50-55. Jantzen discloses a handle 150 that can be folded or removed and equivalent to the applicant's claims to a tab extending upwardly from an upper surface thereof and having an opening. Jantzen fails to show connection means of male and female connectors on the outside of the housing or a clip holding means, and the tab being connected to the

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upper surface via a living hinge. Hollander is cited showing another container device in which rows of modular housings 12 are connected by connectors 46-52 on opposite sides of each housing for the purpose of providing a stable configuration. Sheng is cited showing a clip 30 for the purpose of holding the bins closed. Since the references are from the same field of endeavor the purpose of Hollander and Sheng would have been obvious in the pertinent art of Jantzen at the time of the invention it would have been obvious for one having an ordinary skill in the art to have modified Jantzen with connectors 46-52 on opposite sides of modular units for the purpose providing a stable configuration in view of Hollander and with a clip 30 for the purpose of holding the bins closed in view of Sheng. In regard to the tab being connected to the upper surface via a living hinge, the examiner takes the Official notice that it is well known in the art to provide a storage compartment/container with a living hinge having an opening therein in order to simple, yet effective means for carrying the compartment/container.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jantzen, as modified, as applied to claim 12 above, and further in view of USP 4,401,350 to Fortune.

Jantzen, as modified, discloses all the elements as discussed above except for further comprising a carrying handle being attachable to the connection means.

Fortune teaches the idea of a modular container unit having a plurality of container units 80,81, such as shown in Fig 6, connected to each other by connection means 82, wherein a carrying handle 120 is attachable to said connection means, such as shown in Fig 18, for the purpose of carrying the modular container unit. Therefore, it

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would have been obvious to modify the structure of Jantzen, as modified, by providing a carrying handle attached to the connection means for the purpose of carrying the container unit, as taught by Fortune, since both teach alternate conventional container unit structure, used for the same intended purpose of storing objects, thereby providing structure as claimed.

7. Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jantzen, as modified, as applied to claim 12 above, and further in view of USP 5,803,254 to Vasudeva.

Jantzen, as modified, discloses all the elements as discussed above except for further comprising means for mounting the container unit in a tool box.

Vasudeva teaches the idea of providing a tool box with a container unit having a plurality of bins therein in order to provide a tool box with multiple pivotable storage compartments. Therefore, it would have been obvious to modify the structure of Jantzen, as modified, by providing means for mounting the container unit in a tool box in order to provide the tool box with multiple pivotable storage compartments, as taught by Vasudeva, since both teach alternate conventional multiple storage compartments structure, used for the same intended purpose of storage objects, thereby providing structure as claimed.

### ***Response to Arguments***

8. Applicant's arguments filed 11/4/05 have been fully considered but they are not persuasive. In response to applicant's arguments on page 4 regarding the advantages

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of the tab connected by a living hinge, the examiner takes the position that such advantages are well known in the art.

9. In response to applicant's argument that Jantzen is not designed to be mounted or installed into a holder, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Further, the claimed language fails to provide any structural language or dimensions regarding the size of the container unit.

10. It is noted that the amended language of the tab is drawn to a Non-elected invention according the applicant's letter of 2/26/2003.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT *HVT*  
January 19, 2006

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
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*Lanna Mai*